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U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

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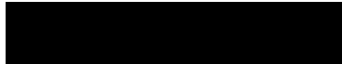
FILE



Office: Texas Service Center

Date: MAY 07 2003

IN RE: Applicant:



APPLICATION:

Application for Certificate of Citizenship under Section 320 of
the Immigration and Nationality Act, 8 U.S.C. § 1431

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant was born on February 1, 1988, in Canada. The applicant's father is unknown. The applicant's mother, [REDACTED] was born in Vietnam in February 1960 and became a naturalized U.S. citizen on June 13, 2001. The applicant's parents never married each other. The applicant was lawfully admitted for permanent residence on July 5, 1993. The applicant is seeking a certificate of citizenship under section 320 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1431.

The director reviewed the record and concluded that the applicant did not qualify as a "child" as that term is defined in section 101(c) of the Immigration and Nationality Act, (the Act), 8 U.S.C. § 1101(c). The director then denied the application accordingly.

On appeal, the applicant's mother states that her boy friend left her and she does not have any information on how to locate him. She requests that her son be allowed to become a U.S. citizen.

Sections 320 and 322 of the Act were amended by the Child Citizenship Act of 2000 (CCA), and took effect on February 27, 2001. The CCA benefits all persons who have not yet reached their 18th birthdays as of February 27, 2001. The applicant was 13 years old on February 27, 2001.

Section 320(a) of the Act, effective on February 27, 2001, provides, in part, that a child born outside of the United States automatically becomes a citizen of the United States when all of the following conditions have been fulfilled:

- (1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization.
- (2) The child is under the age of eighteen years.
- (3) The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.
- (b) Subsection (a) shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under section 101(b)(1).

Stepchildren and children born out of wedlock who have not been legitimated are not included in the definition of the term "child" as used in Title III. Therefore, unless such children are adopted or legitimated, they will not be eligible for benefits under the CCA.

8 C.F.R. § 341.2(c) provides that the burden of proof shall be on the claimant to establish the claimed citizenship by a

preponderance of the evidence. The applicant has failed to meet that burden. He was born out of wedlock and has not been legitimated. Therefore, the appeal will be dismissed.

This decision is without prejudice to the applicant's seeking U.S. citizenship through normal naturalization procedures by filing an Application for Naturalization on Form N-400 with a Service office having jurisdiction over his place of residence.

ORDER: The appeal is dismissed.